

72
**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA**

MEMORANDUM

UNITED STATES OF AMERICA

v.

Case No. 2:12-MJ-217-RRA

CARY DALE VANDIVER
MICHAEL KENNETH RICH
DEAN EDWARD JAKIEL
TONY WAYNE KITCHENS

DATE: JULY 20, 2012

Your case no. 11-20129 ED/MI

TO: David J. Weaver, Clerk of Court

F I L E D
JUL 23 2012
CLERK'S OFFICE
DETROIT

FROM: Sharon Harris, Clerk of Court
by Sherian Fisher, Courtroom Deputy for
Robert R. Armstrong, Jr., U.S. Magistrate Judge
1729 5th Avenue North
Room 140
Birmingham, AL 35203

SUBJECT: Rule 40 Hearing:

The above-styled case originated in your division. Enclosed please find certified true copies filed in the proceedings held in the Northern District of Alabama, wherein the following actions were taken:

INITIAL APPEARANCE: July 13, 2012 an Initial appearance was held and the defendants were appointed cja counsel, only one defendant Michael Kenneth Rich retained counsel.

RULE 40 IDENTITY: Defts wv identity hearing

DETENTION HEARINGS: Detention hrgs held July 16, 2012..

ORDER: Bond granted to all defts except Cary Dale VanDiver. Commitment Order entered July 17, 2012 for Cary Dale VanDiver.

CLOSED

**U.S. District Court
Northern District of Alabama (Southern)
CRIMINAL DOCKET FOR CASE #: 2:12-mj-00217-RRA All Defendants
Internal Use Only**

Case title: USA v. VanDiver et al
Other court case number: 11-20129 Eastern District of
Michigan

Date Filed: 07/13/2012
Date Terminated: 07/18/2012

Assigned to: Magistrate-Judge Robert R
Armstrong

Defendant (1)

Cary Dale VanDiver
TERMINATED: 07/18/2012

represented by **William M Dawson**
DAWSON & WALLACE LAW
OFFICE
2229 Morris Avenue
Birmingham, AL 35203
205-323-6170
Fax: 205-278-3430
Email: bill@billdawsonlaw.com
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Pending Counts

None

Disposition

Highest Offense Level (Opening)

None

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

A TRUE COPY
SHARON N. HARRIS, CLERK
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
BY: *Sherian Fisher*
DEPUTY CLERK

Complaints

18:1962-7480.F

Disposition

Assigned to: Magistrate-Judge Robert R

Armstrong

Defendant (2)

Michael Kenneth Rich
TERMINATED: 07/18/2012

represented by **Walter L Blocker , III**
WALTER L. BLOCKER III PC
3250 Independence Drive
Suite 102
Birmingham, AL 35209
205-879-9595
Fax: 205-871-4512
Email: wlb3law@gmail.com
ATTORNEY TO BE NOTICED
Designation: Retained

Pending Counts

None

Disposition

Highest Offense Level (Opening)

None

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

18:1962-7480.F

Disposition

Assigned to: Magistrate-Judge Robert R
Armstrong

Defendant (3)

Dean Edward Jakiel
TERMINATED: 07/18/2012

represented by **Bill L Barnett**
BILL L BARNETT, ATTORNEY AT
LAW
P O Box 71
Oneonta, AL 35121
205-901-7400
Fax: 205-589-6503
Email: srlitone@yahoo.com
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Pending Counts

None

Disposition

Highest Offense Level (Opening)

None

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

18:1962-7480.F

Disposition

Assigned to: Magistrate-Judge Robert R
Armstrong

Defendant (4)

Tony Wayne Kitchens

TERMINATED: 07/18/2012

represented by **L. Dale Jones**

DALE JONES, ATTORNEY AT LAW

3250 Independence Drive, Suite 201

Birmingham, AL 35209

205-879-7191

Fax: 205-879-9281

Email: DaleJonesatty@aol.com

ATTORNEY TO BE NOTICED

Designation: CJA Appointment

Pending Counts

None

Disposition

Highest Offense Level (Opening)

None

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

Disposition

18:1623.F

Plaintiff**USA**

represented by **Joyce White Vance, US Attorney**
 US ATTORNEY'S OFFICE
 1801 4th Avenue North
 Birmingham, AL 35203-2101
 244-2001
 Email: usa-aln-ecf-usa@usdoj.gov
ATTORNEY TO BE NOTICED

US Probation



UNITED STATES PROBATION
 OFFICE
 Robert Vance Bldg.
 1800 5th Avenue North
 Birmingham, AL 35203
 716-2900
 Email:
 alnpdb_cmecf@alnp.uscourts.gov
ATTORNEY TO BE NOTICED

USM

UNITED STATES MARSHAL
 Hugo Black Courthouse, Room 240
 1729 5th Avenue North
 Birmingham, AL 35203
 205-731-1712
 Email: usms-aln-courts@usdoj.gov
ATTORNEY TO BE NOTICED

John B Felton

US ATTORNEY'S OFFICE
 1801 4th Avenue North
 Birmingham, AL 35203-2101
 205-244-2001
 Email: brad.felton@usdoj.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/13/2012		Arrest (Rule 40) of Cary Dale VanDiver, Michael Kenneth Rich, Dean Edward Jakiel, Tony Wayne Kitchens (SLF). ED/MI 11-CR-20129 and 11-CR-20066. (Entered: 07/13/2012)
07/13/2012	 <u>1</u>	(Court only) Arrest Warrant Returned Executed on 7/13/2012 as to Cary Dale VanDiver, Michael Kenneth Rich, Dean Edward Jakiel, Tony Wayne Kitchens. (Attachments: # <u>1</u> Smith Indictment, # <u>2</u> Sutherland Superseding

		Indictment. Indictment too large to image # 3 Order unsealing Sutherland case, # 4 Order unsealing Smith case)(SLF,) (Entered: 07/13/2012)
07/13/2012	●	Minute Entry for proceedings held before Magistrate-Judge Robert R Armstrong:Initial Appearance as to Cary Dale VanDiver, Michael Kenneth Rich, Dean Edward Jakiel, Tony Wayne Kitchens held on 7/13/2012. Defts present without counsel. Brad Felton ausa present. Leigh Shepherd auspo present. Charges and rights explained to defts. Deft VanDiver, Jakiel and Tony Kitchens request cja counsel. Michael Rich advised the court that he would retain counsel. Govt request detention. Bond denied. Detention hrg set for 7/16/2012 at 02:00 PM in CR 3A in Hugo L Black US Courthouse, Birmingham, AL before Magistrate-Judge Robert R Armstrong. (SLF,) (Entered: 07/13/2012)
07/13/2012	● 2	Sealed Document cja 23 financial afdt as to Tony Kitchens, Cary Vandiver and Dean Edward Jakiel filed. (SLF,) (Entered: 07/13/2012)
07/15/2012	● 3	MOTION for Bond by Cary Dale VanDiver. (Dawson, William) (Entered: 07/15/2012)
07/16/2012	● 4	PRETRIAL MEMORANDUM by Cary Dale VanDiver (Felton, John) (Entered: 07/16/2012)
07/16/2012	●	Minute Entry for proceedings held before Magistrate-Judge Robert R Armstrong:Det hrg as to Michael Kenneth Rich held on 7/16/2012. Brad Felton ausa present, Leigh Shepherd auspo present. Deft present with retained counsel Walter Blocker. Parties agree to a bond. Deft released on \$50,000.00 u/s bond with conditions of special release. Deft advised to be present at the ED/MI on July 20, 2012 at 1:00 p.m. (Court Reporter Teresa Roberson.) (SLF,) (Entered: 07/16/2012)
07/16/2012	●	Minute Entry for proceedings held before Magistrate-Judge Robert R Armstrong:Detention Hearing as to Dean Edward Jakiel held on 7/16/2012. Deft present with cja counsel Bill Barnett, ausa Brad Felton present, Leigh Shepherd auspo present. Parties agree to a bond. Deft released on \$50,000.00 u/s bond with special conditions of release. Deft advised to be present in ED/MI on July 20, 2012 at 1:00 p.m.hrg adj. (Court Reporter Teresa Roberson.) (SLF,) (Entered: 07/16/2012)
07/16/2012	●	Minute Entry for proceedings held before Magistrate-Judge Robert R Armstrong:Det Hrg as to Cary Dale VanDiver held on 7/16/2012, deft present with counsel Dale Jones, ausa Brad Felton present, Leigh Shepherd auspo present. Govt offered testimony, govt rest. Deft offered no testimony. Court to enter written order. Deft remanded to custody of USM, hrg adj. (Court Reporter Teresa Roberson.) (SLF,) (Entered: 07/16/2012)
07/16/2012	●	Minute Entry for proceedings held before Magistrate-Judge Robert R Armstrong:Detention Hearing as to Tony Wayne Kitchens held on 7/16/2012. Deft present with counsel Dale Jones, ausa Brad Felton present. Leigh Shepherd auspo present. Govt offered testimony, govt rest. Deft offered no testimony. Govt arguments. Deft released on \$50,000.00 u/s bond with special conditons of release. hrg adj. (Court Reporter Teresa Roberson.) (SLF,) (Entered: 07/16/2012)

07/16/2012	5	WAIVER of Rule 40 Hearings by Cary Dale VanDiver (SLF,) (Entered: 07/16/2012)
07/16/2012	6	WAIVER of Rule 40 Hearings by Michael Kenneth Rich (SLF,) (Entered: 07/16/2012)
07/16/2012	7	WAIVER of Rule 40 Hearings by Dean Edward Jakiel (SLF,) (Entered: 07/16/2012)
07/16/2012	8	WAIVER of Rule 40 Hearings by Tony Wayne Kitchens (SLF,) (Entered: 07/16/2012)
07/17/2012	9	ORDER of Detention as to Cary Dale VanDiver. Signed by Magistrate-Judge Robert R Armstrong on 7/17/2012. (SLF,) (Entered: 07/17/2012)
07/17/2012	10	ORDER as to Cary Dale VanDiver COMMITMENT TO THE ED/MI. Signed by Magistrate-Judge Robert R Armstrong on 7/17/2012. (SLF,) (Entered: 07/17/2012)
07/17/2012	11	Sealed Document \$50,000.00 u/s bond w/ackw of receipt of general order setting special conditions of release as to Michael Kenneth Rich. (SLF,) Deemed filed July 16, 2012. (Entered: 07/17/2012)
07/17/2012	12	Sealed Document \$50,000 u/s bond w/ackw of receipt of general order setting special conditions of release as to Dean Edward Jakiel. Deemed filed July 16, 2012. (SLF,) (Entered: 07/17/2012)
07/17/2012	13	Sealed Document \$50,000 u/s bond w/ackw of receipt of general orders setting conditions of release as to Tony Wayne Kitchens. (SLF,) Deemed filed July 16, 2012. (Entered: 07/17/2012)
07/18/2012		(Court only) ***Motions terminated as to Cary Dale VanDiver motion denied: 3 MOTION for Bond filed by Cary Dale VanDiver. (SLF,) (Entered: 07/18/2012)
07/18/2012		Minute Entry for proceedings held before Magistrate-Judge Robert R Armstrong: Michael Kenneth Rich, Cary Dale VanDiver, Dean Edward Jakiel and Tony Wayne Kitchens terminated. Court documents mailed to the ED/Michigan. Case closed. (SLF,) (Entered: 07/18/2012)

FILED

2012 Jul-13 PM 04:00

U.S. DISTRICT COURT

N.D. OF ALABAMA

AUSA Saima Mohsin 313-226-9163

Special Agent Bill Fleming 586-412-4844

AO 442 (Rev. 01/09) Arrest Warrant

UNITED STATES DISTRICT COURT

for the

Eastern District of Michigan

FILED

2012 JUL 13 P 1:28

U.S. DISTRICT COURT
N.D. OF ALABAMA

United States of America

v.

D-20 TONY WAYNE KITCHENS
a/k/a "Trouble"

Case No. 11-CR-20129

Amended
ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay(name of person to be arrested) TONY WAYNE KITCHENS

who is accused of an offense or violation based on the following document filed with the court:

☐ Indictment ☒ Superseding Indictment ☐ Information ☐ Superseding Information ☐ Complaint
☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court

This offense is briefly described as follows:

Count 33 - 18 U.S.C. SS 1623 - Perjury

 A TRUE COPY
 SHARON N. HARRIS, CLERK
 UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF ALABAMA

 BY: *Sherron Tisher*
 DEPUTY CLERK
Date: June 15, 2012City and state: Detroit, Michigan*[Signature]*

OLITA CRANGER

DEPUTY CLERK

Printed name and title

Return

 This warrant was received on (date) 7/10/2012, and the person was arrested on (date) 7/13/2012
 at (city and state) Albertville, AL
Date: 7/13/2012
F.W. Langdon Jr.
 F.W. Langdon Jr., SA, FBI
 Arresting officer's signature
 Printed name and title

AO 442 (Rev. 01/09) Arrest Warrant

AUSA Saima Mohsin 313-226-9163
Special Agent Bill Fleming 586-412-4844

UNITED STATES DISTRICT COURT

for the
Eastern District of Michigan

United States of America

v.

D- 7 CARY DALE VANDIVER, a/k/a "Gun Control"

Case No. 11-CR-20129

FILED
2012 JUL 13 P 1:28
U.S. DISTRICT
N.D. OF AL.

ARREST WARRANT

To: Any authorized law enforcement officer


YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay(name of person to be arrested) CARY DALE VANDIVER, a/k/a "Gun Control"

who is accused of an offense or violation based on the following document filed with the court:

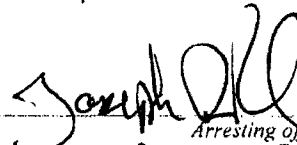
- ☐ Indictment ☒ Superseding Indictment ☐ Information ☐ Superseding Information ☐ Complaint
☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court

This offense is briefly described as follows:

- Count 1 - 18 U.S.C. SS 1962(d) - Racketeer influenced corrupt organization - conspiracy;
 Count 2 - 18 U.S.C. SS 371, 1955 - Conspiracy to conduct and illegal gambling business;
 Count 3 - 21 U.S.C. SS 846, 841(a)(1) - Conspiracy to manufacture, distribute, and possess with intent to distribute controlled substances,
 Count 4 - 21 U.S.C. SS 841(a)(1), 18 U.S.C. SS 2, Distribution of methamphetamine;
 Count 26 - 18 U.S.C. SS 1512(b)(3)(k) - Conspiracy to obstruct justice by witness tampering;
 Count 27 - 21 U.S.C. SS 841(a)(1), (b)(1)(C) - Possession with intent to distribute methamphetamine;
 Count 28 - 21 U.S.C. SS 843(a)(6) - Possession of methamphetamine precursors;
 Count 30 - 18 U.S.C. SS 1959(a)(3) 2 - Assault in aid of racketeering activity, aiding and abetting.

Date: June 13, 2012City and state: Detroit, Michigan

 Issuing officer's signature
LOLITA GRANGER
 Printed name and title

Return

 This warrant was received on (date) 6/13/12, and the person was arrested on (date) 7/13/12
 at (city and state) ANN ARBOR, MI
Date: 7/13/12

 Arresting officer's signature
JOSEPH A. PORCILIO
 Printed name and title

AO 442 (Rev. 01/09) Arrest Warrant

AUSA Saima Mohsin 313-226-9163
Special Agent Bill Fleming 586-412-4844**FILED****UNITED STATES DISTRICT COURT**for the
Eastern District of Michigan2012 JUL 13 P 1:28
U.S. DISTRICT
N.D. OF ALA.

United States of America

v.

D-14 MICHAEL KENNETH RICH
a/k/a "Tatu"

Case No. 11-CR-20129

ARREST WARRANT

To: Any authorized law enforcement officer

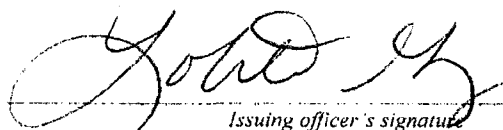
YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay(name of person to be arrested) MICHAEL KENNETH RICH

who is accused of an offense or violation based on the following document filed with the court:


- ☐ Indictment ☒ Superseding Indictment ☐ Information ☐ Superseding Information ☐ Complaint
☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court

This offense is briefly described as follows:

Count I - 18 U.S.C. SS 1962(d) - Racketeer influenced corrupt organization - conspiracy;

Date: June 13, 2012

 Issuing officer's signature
City and state: Detroit, Michigan**LOLITA GRANGER**

Printed name and title

ReturnThis warrant was received on (date) 6/13/12, and the person was arrested on (date) 7/13/12
at (city and state) ANNISTON, ALDate: 7/13/12

 Arresting officer's signature
JOSEPH D. WILLIAMS
 Printed name and title

AO 442 (Rev. 01/09) Arrest Warrant

AUSA Saima Mohsin 313-226-9163
Special Agent Bill Fleming 586-412-4844**FILED**

UNITED STATES DISTRICT COURT

for the

Eastern District of Michigan

2012 JUL 13 P 1:28

U.S. DISTRICT COURT
E.D. OF MICHIGAN

United States of America

v.

D-19 DEAN EDWARD JAKIEL
a/k/a "Jesus"

Case No. 11-CR-20129

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay(name of person to be arrested) DEAN EDWARD JAKIEL

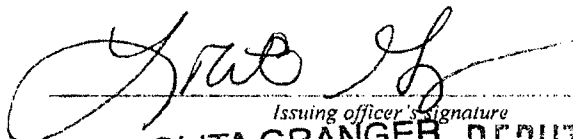
who is accused of an offense or violation based on the following document filed with the court:

- ☐ Indictment ☒ Superseding Indictment ☐ Information ☐ Superseding Information ☐ Complaint
☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court

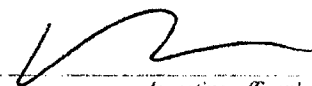
This offense is briefly described as follows:

Count 1 - 18 U.S.C. SS 1962(d) - Racketeer influenced corrupt organization - conspiracy;

Date: June 13, 2012City and state: Detroit, Michigan


 Issuing officer's signature
LOLITA GRANGER
 Deputy Clerk
 Printed name and title

ReturnThis warrant was received on (date) 7-13-12, and the person was arrested on (date) 7/13/12
at (city and state) _____Date: 7-13-12


 Arresting officer's signature
SA Preston Leung
 Printed name and title

FILED

2012 Jul-13 PM 04:00
U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED
JUL 13 2012

JUL 13 2012

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

Case: 2:11-cr-20066

Judge: Battani, Marianne O. UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

MJ: Majzoub, Mona K

Filed: 02-09-2011 At 03:48 PM

SEALED MATTER (LG)

VIOLATIONS: 18 U.S.C. §§ 2, 371,
876, 1503, 1513, 1622

- D-1 JEFF GARVIN SMITH
a/k/a "Fat Dog"
D-2 PAUL ANTHONY DARRAH
a/k/a "Pauli"
D-3 MICHAEL WILLIAM MASTROMATTEO
a/k/a "Iron Mike"
D-4 VERNON NELSON RICH
a/k/a "Vern"
D-5 CARY DALE VANDIVER
a/k/a "Gun Control"
D-6 VICTOR CARLOS CASTANO
D-7 EDWARD ALLEN TAYLOR
a/k/a "Big Ed"
D-8 MICHAEL KENNETH RICH
a/k/a "Tatu"
D-9 WILLIAM SCOTT LONSBY
a/k/a "Buck, Buckwheat"
D-10 KEITH WILLIAM MCFADDEN
a/k/a "Gadget"
D-11 FNU LNU
a/k/a "Jesus"

Defendants.

MAG 12

217

INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

Conspiracy to Suborn Perjury and Obstruct Justice

18 U.S.C. § 371

- D-1 JEFF GARVIN SMITH
a/k/a "Fat Dog"
- D-2 PAUL ANTHONY DARRAH
a/k/a "Paulie"
- D-3 MICHAEL WILLIAM MASTROMATTEO
a/k/a "Iron Mike"
- D-5 CARY DALE VANDIVER
a/k/a "Gun Control"
- D-6 VICTOR CARLOS CASTANO
- D-8 MICHAEL KENNETH RICH
a/k/a "Tatu"
- D-11 FNU LNU
a/k/a "Jesus"

A. GENERAL ALLEGATIONS.

At all times material to this Indictment:

1. VICTOR CARLOS CASTANO was arrested on June 17, 2004, in the Eastern District of Michigan. At the time of his arrest, a loaded Smith & Wesson .44 caliber revolver was found inside a console in the front passenger compartment of the Dodge pick-up truck VICTOR CARLOS CASTANO was driving.
2. VICTOR CARLOS CASTANO was charged on June 17, 2005 in a three count federal indictment with offenses including a violation of 18 U.S.C. §922(g)(1), felon in possession of a firearm, and a violation of 18 U.S.C. §924(c), carrying a firearm

during drug trafficking crime, based on the seizure of the loaded Smith & Wesson .44 caliber revolver found inside the pick-up truck VICTOR CARLOS CASTANO was driving.

3. Keith McFadden and Stella Herron testified under oath as defense witnesses, and Vernon Rich and William Lonsby testified as prosecution witnesses in the criminal jury trial, *United States of America v. Victor Castano*, No. 05-CR-80554 on February 22, 2006.

4. VICTOR CARLOS CASTANO was convicted of being a felon in possession of a firearm, and of carrying a firearm during a drug trafficking crime after a trial by jury which commenced in the Eastern District of Michigan on February 21, 2006, and concluded on February 23, 2006.

5. On May 16, 2006, VICTOR CARLOS CASTANO was sentenced to a term of incarceration.

6. On May 23, 2006, VICTOR CARLOS CASTANO filed a notice of appeal.

7. On August 23, 2006, VICTOR CARLOS CASTANO was delivered to the Federal Correctional Institute in Milan, Michigan to serve his prison sentence.

8. On October 7, 2008, VICTOR CARLOS CASTANO's conviction for using and carrying a firearm during and in relation to a drug trafficking crime, 18 United States Code §924(c), was reversed by the Court of Appeals, and his conviction for felon in possession of a firearm, 18 United States Code, §922(g) was affirmed.

9. On March 12, 2009, VICTOR CARLOS CASTANO was re-sentenced on the charge of being a felon in possession of a firearm.

B. THE CONSPIRACY

10. That from at least in or about June, 2005, through in or about March 2009, in the Eastern District of Michigan, Southern Division, defendants JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," did knowingly, unlawfully and willfully conspire, confederate and agree with other persons known and unknown to the grand jury, to commit offenses against the United States, that is, to suborn the perjurious testimony of Keith McFadden. and Stella Herron at the February 2006 federal criminal trial of VICTOR CARLOS CASTANO in the Eastern District of Michigan and to obstruct justice by corruptly and by threats, endeavoring to influence, obstruct, impede the due administration of justice.

C. MANNER, MEANS AND METHODS OF THE CONSPIRACY.

11. The manner, means and methods employed by the defendants, JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," and other persons known and unknown to the Grand Jury, to effect the objects of the conspiracy were as follows:

12. It was a part of the conspiracy that JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," defendants herein, and other persons known and unknown to the Grand Jury, did agree to corruptly solicit, encourage, and coerce Keith McFadden to testify falsely at VICTOR CARLOS CASTANO's criminal jury trial.

13. It was further a part of the conspiracy that JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," defendants herein, and other persons known and unknown to the Grand Jury, did agree to corruptly solicit, encourage, coerce, and threaten Stella Herron to testify falsely at VICTOR CARLOS CASTANO's criminal jury trial.

14. It was further part of the conspiracy for the defendants, JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," and other persons known and unknown to the Grand Jury, to meet with Keith McFadden and Stella Herron, to fabricate, manufacture, and compose the contents of the perjured testimony at VICTOR CARLOS CASTANO's criminal jury trial, all to dispel, contradict, and rebut the evidence of VICTOR CARLOS CASTANO's knowledge and possession of the loaded Smith & Wesson .44 caliber firearm.

15. It was further part of the conspiracy for VICTOR CARLOS CASTANO to allow Keith McFadden and Stella Herron to reside within VICTOR CARLOS CASTANO's residence during his criminal jury trial.

16. It was further part of the conspiracy for JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," to obstruct justice through conduct, including obscuring the truth and misleading the court and the jury to ensure that VICTOR CARLOS CASTANO was acquitted of criminal charges.

D. OVERT ACTS.

17. In furtherance of the conspiracy, and to effect the object thereof, the defendants committed and caused to be committed the following overt acts, among others, in the Eastern District of Michigan and elsewhere:

18. JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," known and unknown to the Grand Jury, met with Keith McFadden and Stella Herron between June 17, 2005 and January 23, 2006;

19. JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," and others,

known and unknown to the Grand Jury, solicited, encouraged, and coerced Keith McFadden and solicited, encouraged, coerced, and threatened Stella Herron to testify falsely at VICTOR CARLOS CASTANO's criminal jury trial that, in particular, the loaded Smith & Wesson .44 caliber firearm found in the vehicle operated by VICTOR CARLOS CASTANO on June 17, 2005 belonged to Stella Herron, that Stella Herron left the firearm in the vehicle on June 16, 2005, and that VICTOR CARLOS CASTANO did not know the firearm was in the vehicle when the firearm was seized on June 17, 2005.

20. Before and after the February 2006 trial, VICTOR CARLOS CASTANO allowed Keith McFadden and Stella Herron to reside with VICTOR CARLOS CASTANO at an address in the Eastern District of Michigan.

21. Prior to the February 2006 trial, and during the time Keith McFadden and Stella Herron resided at the VICTOR CARLOS CASTANO's residence, MICHAEL WILLIAM MASTROMATTEO and VICTOR CARLOS CASTANO assisted and coached Keith McFadden and Stella Herron in formulating, contriving, and concocting their false trial testimony.

22. Prior to the February 23, 2006 jury verdict, the VICTOR CARLOS CASTANO agreed to give Keith McFadden five pounds of marijuana in exchange for his false testimony.

23. In February 2006, Keith McFadden received five pounds of marijuana from the VICTOR CARLOS CASTANO.

24. In March 2009, after VICTOR CARLOS CASTANO's conviction pursuant

to 28 U.S.C. § 924(c) was overturned on appeal, Keith McFadden was contacted and advised of the need for additional testimony by McFadden at CASTANO's re-trial.

25. Between approximately November 2007 and December 11, 2007, while VICTOR CARLOS CASTANO was serving his federal prison sentence at the Federal Correctional Institution in Milan, Michigan, VICTOR CARLOS CASTANO drafted and mailed a letter addressed to Vernon Nelson Rich, threatening physical assault "with a ball bat or a bullet" to cause bodily injury to Vernon Nelson Rich, with the intent to retaliate against Vernon Nelson Rich for the attendance of and testimony given by Vernon Nelson Rich, at VICTOR CARLOS CASTANO's criminal trial.

All in violation of Title 18, United States Code, sections 371, 1503, 1622.

COUNT TWO

Subornation of Perjury, Aiding and Abetting

18 U.S.C. §§ 2,1622

- D-1 JEFF GARVIN SMITH
a/k/a "Fat Dog"
- D-2 PAUL ANTHONY DARRAH
a/k/a "Paulie"
- D-3 MICHAEL WILLIAM MASTROMATTEO
a/k/a "Iron Mike"
- D-5 CARY DALE VANDIVER
a/k/a "Gun Control"
- D-6 VICTOR CARLOS CASTANO
- D-8 MICHAEL KENNETH RICH
a/k/a "Tatu"
- D-11 FNU LNU
a/k/a "Jesus"

1. Between approximately June 2005 and February 2006, in the Eastern District of Michigan, and elsewhere, the defendant, VICTOR CARLOS CASTANO, did wilfully suborn and procure Keith McFadden to commit perjury by testifying falsely under oath to a material matter in a case entitled *United States of America v. Victor Castano*, No. 05-CR-80554, in the United States District Court for the Eastern District of Michigan.

2. It was material to the said case described in paragraph one to determine whether VICTOR CARLOS CASTANO knowingly possessed a firearm on or about June 17, 2004, in the Eastern District of Michigan.

3. From at least June 2005 until approximately March 2009, JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," wilfully suborned and procured Keith McFadden to testify falsely in the proceedings described in paragraph one that:

(a) the loaded Smith & Wesson .44 caliber firearm seized from the Dodge pick-up truck the defendant, VICTOR CARLOS CASTANO was driving on June 17, 2004, belonged to Stella Herron;

(b) that in the day or so prior to VICTOR CARLOS CASTANO's June 17, 2004 arrest, Keith McFadden and Stella Herron were in possession of the Dodge pick-up truck, and used the truck;

(c) that while in possession of said Dodge pick-up truck, Stella Herron

placed her loaded Smith & Wesson .44 caliber firearm in the center console of the vehicle, and did not remove the firearm from inside the vehicle;

(d) that Keith McFadden gave the Dodge pick-up truck to VICTOR CARLOS CASTANO on or about June 17, 2004 and that, at that time, the firearm was left inside the center console of the passenger compartment of the vehicle, forgotten by both Stella Herron and Keith McFadden; and

(e) that VICTOR CARLOS CASTANO did not know the firearm was inside said Dodge pick-up truck.

4. On the February 22, 2006, the said Keith McFadden, after being duly sworn by the Court at the trial in the case entitled *United States of America v. Victor Castano*, No. 05-CR-80554, Keith McFadden falsely testified under oath in the proceedings that:

- (a) the firearm "belongs to my common law wife...[Stella Herron]," and, that "it's our gun";
- (b) that Keith McFadden borrowed the vehicle VICTOR CARLOS CASTANO was arrested in to drive Stella Herron to strip clubs while Stella Herron looked for a job;
- (c) that Stella Herron placed the firearm in the console of the truck;
- (d) that Keith McFadden met with VICTOR CARLOS CASTANO the next morning and gave him the car, and that Stella Herron "forgot the gun in the console"; and
- (e) that Keith McFadden never loaned the gun to Mr. Castano.

5. The testimony of Keith McFadden as aforesaid was false and perjurious as both Keith McFadden and the defendants well knew;

All in violation of 18 U.S.C. §1622, 1623.

COUNT THREE

Obstruction of Justice

18 U.S.C. §1503 (a)

D-1 JEFF GARVIN SMITH
a/k/a "Fat Dog"
D-2 PAUL ANTHONY DARRAH
a/k/a "Paulie"
D-3 MICHAEL WILLIAM MASTROMATTEO
a/k/a "Iron Mike"
D-5 CARY DALE VANDIVER
a/k/a "Gun Control"
D-6 VICTOR CARLOS CASTANO
D-8 MICHAEL KENNETH RICH
a/k/a "Tatu"
D-11 FNU LNU
a/k/a "Jesus"

From at least in or about June 2005, through in or about February 2006, in the Eastern District of Michigan, the defendants, JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," did corruptly influence, obstruct and impede and endeavor to influence, obstruct and impede the due administration of justice in *United States v. Victor Castano*, No. 05-CR-80554 in the U.S. District Court for the Eastern District of

Michigan, by soliciting, encouraging and procuring the false testimony of Keith McFadden and by threatening, soliciting, encouraging and procuring the false testimony of Stella Herron.

All in violation of Title 18, United States Code, Section 1503.

COUNT FOUR

Obstruction of Justice by Threats to a Witness
18 U.S.C. §1513(b)(1)

D-6 VICTOR CARLOS CASTANO

Between approximately November 2007 and December 11, 2007, in the Eastern District of Michigan, the defendant, VICTOR CARLOS CASTANO, did knowingly threaten to engage in conduct, to wit: physical assault "with a ball bat or a bullet" to cause bodily injury to Vernon Nelson Rich, with the intent to retaliate against Vernon Nelson Rich for the attendance of and testimony given by Vernon Nelson Rich, a witness in an official proceeding, *United States v. Victor Castano*, No. 05-CR-80554 in the U.S. District Court for the Eastern District of Michigan.

All in violation of Title 18, United States Code, Section 1513(b)(1).

COUNT FIVE

Mailing Threatening Communications
18 U.S.C. §876(c)

D-6 VICTOR CARLOS CASTANO

Between approximately November 2007 and December 11, 2007, and elsewhere,

the Eastern District of Michigan, defendant VICTOR CARLOS CASTANO, did knowingly and willfully deposit in an authorized depository for mail matter, to be sent and delivered by the Postal Service a communication, undated and addressed to "Vern, 2424 Little Street, Port Huron, Michigan, 48060," and containing a threat to injure "Vern."

All in violation of Title 18, United States Code, Section 876(c).

COUNT SIX

Conspiracy to Distribute, and to Possess With Intent to Distribute Marijuana
21 U.S.C. §§ 846, 841(a)(1)

D-4 VERNON NELSON RICH
a/k/a "Vern"
D-6 VICTOR CARLOS CASTANO
D-7 EDWARD ALLEN TAYLOR
a/k/a "Big Ed"
D-8 MICHAEL KENNETH RICH
a/k/a "Tatu"
D-9 WILLIAM SCOTT LONSBY
a/k/a "Buck, Buckwheat"
D-10 KEITH WILLIAM MCFADDEN
a/k/a "Gadget"

From approximately July 2003 through February 2006, in the Eastern District of Michigan, and elsewhere, defendants did knowingly, intentionally and unlawfully combine, conspire, confederate and agree with each other, and with other persons whose names are both known and unknown to the Grand Jury, to commit crimes against the United States, that is, to

distribute, and to possess with intent to distribute, more than 100 kilograms of marijuana, all in violation of Title 21, United States Code, Sections 841(a)(1) and 846.

THIS IS A TRUE BILL.

s/ Foreperson

BARBARA L. McQUADE
United States Attorney

s/ Saima Mohsin
Assistant United States Attorney
211 W. Fort Street, Suite 2001
Detroit, MI 48226
(313) 226-9163
Email: Saima.Mohsin@usdoj.gov

s/ Eric Straus
Assistant United States Attorney
211 W. Fort Street, Suite 2001
Detroit, MI 48226
(313) 226-9648
Email: Eric Straus@usdoj.gov

Dated: February 9, 2011

FILED

2012 Jul-13 PM 04:00
U.S. DISTRICT COURT
N.D. OF ALABAMA

FILED FILED

JUL 13 2012 JUL 13 2012

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA

Plaintiff,

v.

Criminal No. 11-20129

D-1 SCOTT WILLIAM SUTHERLAND
a/k/a "Scotty Z"

HON. ROBERT H. CLELAND

D-2 RONALD RAYMOND ROBERTS
a/k/a "Rockin' Ronnie"

Violations:

D-3 DAVID THOMAS ROBERTS
a/k/a "Detroit Dave"

18 U.S.C. §§2, 371, 922, 924(c), 1001,
1512, 1623, 1952, 1955, 1959, 1962(d)

D-4 PATRICK MICHAEL MCKEOUN
a/k/a "Magoo"

21 U.S.C. §§ 841, 843, 846, 860a

D-5 JEFF GARVIN SMITH
a/k/a "Fat Dog"

D-6 PAUL ANTHONY DARRAH
a/k/a "Pauli"

D-7 CARY DALE VANDIVER
a/k/a "Gun Control"

D-8 VINCENT JOHN WITORT
a/k/a "Holiday"

D-9 MICHAEL WILLIAM
MASTROMATTEO
a/k/a "Iron Mike"

D-10 VERNON NELSON RICI
a/k/a "Vern"

D-11 JOHN RENNY RIEDE
a/k/a "Bear"

D-12 VICTOR CARLOS CASTANO
a/k/a "Vic"

FILED
JUN 13 2012
CLERK'S OFFICE
DETROIT

- D-13 GARY LEE NELSON
- D-14 MICHAEL KENNETH RICH
a/k/a "Tatu"
- D-15 RAYMOND CHARLES MELIOLI
a/k/a "Romeo"
- D-16 TIMOTHY PAUL DOWNS
a/k/a "Space"
- D-17 DAVID RANDY DROZDOWSKI
a/k/a "D"
- D-18 SMILEY VILLA
a/k/a "SA"
- D-19 DEAN EDWARD JAKIEL
a/k/a "Jesus"
- D-20 TONY WAYNE KITCHENS
a/k/a "Trouble"
- D-21 SYLVESTER GERARD WESAW
a/k/a "Sly Dog"
- D-22 RONALD NICK PRELETZ
a/k/a "Polar Bear"
- D-23 HOWARD JOSEPH QUANT
a/k/a "44"
- D-24 SCOTT THOMAS PERKINS
a/k/a "Scooter, Scotty P"
- D-25 CLIFFORD CHANSEL RHODES II
a/k/a "Cliff"
- D-26 DAVID ROY DELONG
a/k/a "Reverend"
- D-27 CHRISTOPHER RAYMOND COOK
a/k/a "Damien"
- D-28 MICHAEL JOHN PALAZZOLA
a/k/a "Utica Mike"
- D-29 DANNY RUSSELL BURBY, JR.
a/k/a "Thumbs"

D-30 RONALD LEON LAMBERT
a/k/a "Crow"

D-31 JASON JOSEPH COOK
a/k/a "Cookie"

D-32 EDWARD ALLEN TAYLOR
a/k/a "Big Ed"

D-33 SALVATORE BATTAGLIA
a/k/a "Bando"

D-34 WILLIAM SCOTT LONSBY
a/k/a "Buck, Buckwheat"

D-35 WAYNE RUSSELL WERTH

D-36 LAURI ANN LEDFORD

D-37 JENNIFER LEE CICOLA

D-38 DEAN ANTHONY TAGLIAVIA

D-39 ALEXIS CATHERINE MAY

D-40 PAULA MILEHA FRISCIONI

D-41 JOHN CHARLES SCUDDER

Defendants.

THIRD SUPERSEDING INDICTMENT

THE GRAND JURY CHARGES:

COUNT 1

(18 U.S.C. §§1962(d) – RACKETEER INFLUENCED CORRUPT ORGANIZATION - CONSPIRACY)

D-1 SCOTT WILLIAM SUTHERLAND
D-2 RONALD RAYMOND ROBERTS
D-3 DAVID THOMAS ROBERTS
D-4 PATRICK MICHAEL MCKEOUN
D-5 JEFF GARVIN SMITH
D-6 PAUL ANTHONY DARRAH
D-7 CARY DALE VANDIVER
D-8 VINCENT JOHN WITORT
D-9 MICHAEL WILLIAM MASTROMATTEO

D-10 VERNON NELSON RICH
D-11 JOHN RENNY RIEDE
D-12 VICTOR CARLOS CASTANO
D-13 GARY LEE NELSON
D-14 MICHAEL KENNETH RICH
D-15 RAY CHARLES MELIOLI
D-16 TIMOTHY PAUL DOWNS
D-17 DAVID RANDY DROZDOWSKI
D-19 DEAN EDWARD JAKIEL

THE ENTERPRISE

1. At all times material to this Indictment, the Devils Diciples Motorcycle Club (hereinafter referred to as DDMC) was a criminal organization, that is: an outlaw motorcycle club which existed geographically and territorially alongside, and in some instances, in a hostile co-existence with other outlaw motorcycle clubs in various parts of the United States of America.

2. At all times material to this Indictment, the DDMC was comprised of regional "chapters" located in various cities in Michigan, Alabama, Arizona, California, Illinois, Indiana, Ohio, and elsewhere.

4. At various times material to this Indictment, the State of Michigan Chapters were located in Ira Township/Chesterfield Township (referred to as "Blue Water"), Bay City (referred to as "Bay City"), Detroit (referred to as "West Side"), Grand Rapids (referred to as "Grand Rapids"), Clinton Township (referred to as "Mt. Clemens" or "Detroit"); Port Huron, (referred to as "Port Huron") and Utica (referred to as "Utica").

5. At all times material to this Indictment, the Clinton Township, Michigan Chapter of the DDMC (referred to by members of the DDMC as "the Detroit Chapter" and "the Mt. Clemens Chapter") was regarded as the DDMC's national headquarters.

6. At all times material to this Indictment, the DDMC, through its various chapters, engaged in criminal activities for financial gain which included distribution of narcotics, theft,

FILED

2012 Jul-13 PM 04:00
U.S. DISTRICT COURT
N.D. OF ALABAMA

FILED

2012 JUL 13 P 1:27

U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 11-CR-20129

-vs-

Hon. Robert H. Cleland

D-1 SCOTT WILLIAM SUTHERLAND, et al.,

Defendants.

MAG 12

217

**GOVERNMENT'S MOTION, SUPPORTING BRIEF
AND ORDER TO UNSEAL INDICTMENT AND ARREST WARRANTS**

The United States of America hereby moves for an order unsealing the
Indictment and Arrest Warrants in this case, and states:

1. The Indictment in this case charges the defendants with one or more
federal crimes.

~~2. Rule 6(e)(4) of the Federal Rules of Criminal Procedure, which authorizes this~~
Court to seal indictments, implicitly authorizes this Court to unseal indictments.

3. The government requests that the Indictment and Arrest Warrants be
unsealed because the defendants have been arrested and is entitled to receive a
copy of the Indictment and Arrest Warrants.

WHEREFORE, the government requests this Court to issue an order
unsealing the Indictment and Arrest Warrants.

Respectfully submitted,

BARBARA L. MCQUADE
United States Attorney



SAIMA MOHSIN
Assistant United States Attorney
211 West Fort Street, Suite 2001
Detroit, Michigan 48226-3220
phone: 313-226-9163
e-mail: saima.mohsin@usdoj.gov
bar no.: P73990

Date: July 13, 2012

IT IS SO ORDERED.

MARK A. RANDON

HON. MARK A. RANDON
United States Magistrate Judge

Entered: JUL 13 2012

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED

2012 JUL 13 P 1:27

U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES OF AMERICA,

Plaintiff,

No. 11-CR-20066

-vs-

HON. MARIANNE O. BATTANI

D-1JEFF GARVIN SMITH, et. al.

Defendants.

MAG 12

217

**GOVERNMENT'S MOTION, SUPPORTING BRIEF
AND ORDER TO UNSEAL AND ARREST WARRANTS**

The United States of America hereby moves for an order unsealing the
Indictment and Arrest Warrants in this case, and states:

1. The Indictment in this case charges the defendants with one or more
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WHEREFORE, the government requests this Court to issue an order
unsealing the Indictment and Arrest Warrants.

Respectfully submitted,

BARBARA L. MCQUADE
United States Attorney


SAIMA MOHSIN
Assistant United States Attorney
211 West Fort Street, Suite 2001
Detroit, Michigan 48226-3220
phone: 313-226-9163
e-mail: saima.mohsin@usdoj.gov
bar no.: P73990

Date: July 13, 2012

IT IS SO ORDERED.

MARK A. RANDON

HON. MARK A. RANDON
United States Magistrate Judge

JUL 13 2012

Entered:

2012 Jul-13 PM 04:11

U.S. DISTRICT COURT
BAMA

FINANCIAL AFFIDAVIT

CJA 23
(Rev. 5/98)

IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT OR OTHER COURT SERVICES WITHOUT PAYMENT OF FEE

IN UNITED STATES ☐ MAGISTRATE ☐ DISTRICT ☐ APPEALS COURT or ☐ OTHER PANEL (Specify below)

IN THE CASE OF

FOR

AT

LOCATION NUMBER

2012 JUL 13 12:28

DOCKET NUMBERS

Magistrate

District Court

Court of Appeals

PERSON REPRESENTED (Show your full name)

Cary Vandiver

CHARGE/OFFENSE (describe if applicable & check box →)

☒ Felony
☐ Misdemeanor

- 1 ☒ Defendant - Adult
 2 ☐ Defendant - Juvenile
 3 ☐ Appellant
 4 ☐ Probation Violator
 5 ☐ Parole Violator
 6 ☐ Habeas Petitioner
 7 ☐ 225S Petitioner
 8 ☐ Material Witness
 9 ☐ Other (Specify) _____

ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY

ASSETS	EMPLOYMENT	Are you now employed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Am Self Employed		<i>applied disability 1.5 yrs ago not approved as of 7/11</i>	
		Name and address of employer: _____			
		IF YES, how much do you earn per month? \$ _____	IF NO, give month and year of last employment _____		
		If married is your Spouse employed? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Divorced</i>	How much did you earn per month? \$ _____		
		IF YES, how much does your Spouse earn per month? \$ _____	If a minor under age 21, what is your Parents or Guardian's approximate monthly income? \$ _____		
OTHER INCOME	Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
	IF YES, GIVE THE AMOUNT RECEIVED & IDENTIFY THE SOURCES	RECEIVED <i>381</i>	SOURCES <i>food stamps</i>		
CASH	Have you any cash on hand or money in savings or checking account <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF YES, state total amount \$ _____				
PROPERTY	Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
	IF YES, GIVE THE VALUE AND DESCRIBE IT	VALUE	DESCRIPTION		
OBLIGATIONS & DEBTS	DEPENDENTS	MARITAL STATUS	Total No. of Dependents	List persons you actually support and your relationship to them	
		<input type="checkbox"/> SINGLE			
		<input type="checkbox"/> MARRIED			
		<input checked="" type="checkbox"/> SEPARATED OR DIVORCED	<i>0</i>	<i>Sharon Fisher</i> DEPUTY CLERK	
DEBTS & MONTHLY BILLS (LIST ALL CREDITORS, INCLUDING BANKS, LOAN COMPANIES, CHARGE ACCOUNTS, ETC.)	APARTMENT OR HOME:	Creditors	Total Debt	Monthly Payt.	
	<i>Living w/ brother & friend</i>		\$	\$ 250 ⁰⁰	
	<i>cell phone</i>		\$	\$	
	<i>groceries</i>		\$	\$	

I certify under penalty of perjury that the foregoing is true and correct. Executed on (date) 7/13/12SIGNATURE OF DEFENDANT
(OR PERSON REPRESENTED)

Cary Vandiver

FINANCIAL AFFIDAVIT

CJA 23
(Rev. 5/98)

IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT OR OTHER COURT SERVICES WITHOUT PAYMENT OF FEE

IN UNITED STATES ☐ MAGISTRATE ☐ DISTRICT ☐ APPEALS COURT or ☐ OTHER PANEL (Specify below)

IN THE CASE OF

FOR

AT

VS.

FILED

2012 JUL 13 P 1 28

PERSON REPRESENTED (Show your full name)

Dean Edward Jakiel

CHARGE/OFFENSE (describe if applicable & check box →)

☒ Felony
☐ Misdemeanor

- ☒ Defendant - Adult
☐ Defendant - Juvenile
☐ Appellant
☐ Probation Violator
☐ Parole Violator
☐ Habeas Petitioner
☐ 2255 Petitioner
☐ Material Witness
☐ Other (Specify)

DOCKET NUMBERS

Magistrate

7-2-217

District Court

Court of Appeals

ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY

ASSETS	EMPLOYMENT	Are you now employed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Am Self Employed	
		Name and address of employer: _____	
		IF YES, how much do you earn per month? \$ _____	IF NO, give month and year of last employment How much did you earn per month? \$ _____
		IF married is your Spouse employed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	married but receives disability
		IF YES, how much does your Spouse earn per month? \$ _____	If a minor under age 21, what is your Parents or Guardian's approximate monthly income? \$ _____
OTHER INCOME	Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
	IF YES, GIVE THE AMOUNT RECEIVED & IDENTIFY THE SOURCES	RECEIVED \$ 1300 - Disability	SOURCES
CASH	Have you any cash on hand or money in savings or checking account? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No IF YES, state total amount \$ 2500		
PROPERTY	Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input type="checkbox"/> No		
	IF YES, GIVE THE VALUE AND DESCRIBE IT	VALUE DESCRIPTION	
DEPENDENTS	MARITAL STATUS	Total No. of Dependents	List persons you actually support and your relationship to them
	<input type="checkbox"/> SINGLE <input checked="" type="checkbox"/> MARRIED <input type="checkbox"/> WIDOWED <input type="checkbox"/> SEPARATED OR DIVORCED		3 adult children 4 grandchildren (2 stay w/s)
DEBTS & MONTHLY BILLS	APARTMENT OR HOME:	Creditors	Total Debt Monthly Payt.
	(LIST ALL CREDITORS, INCLUDING BANKS, LOAN COMPANIES, CHARGE ACCOUNTS, ETC.)	Utilities Groceries Medicines (taken out check) Gas/transportation	\$ 700 \$ 800 (+) \$ 400

I certify under penalty of perjury that the foregoing is true and correct. Executed on (date) 7/13/12

SIGNATURE OF DEFENDANT
(OR PERSON REPRESENTED)

X [Signature]

FINANCIAL AFFIDAVITCJA 23
(Rev. 5/98)

IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT OR OTHER COURT SERVICES WITHOUT PAYMENT OF FEE

IN UNITED STATES
IN THE CASE OF☐ MAGISTRATE ☐ DISTRICT ☐ APPEALS COURT or ☐ OTHER PANEL (Specify below)

FOR

AT

LOCATION NUMBER

2012 JUL 13 P 1:28

U.S. DISTRICT COURT

DOCKET NUMBERS

Magistrate

12-217

District Court

Court of Appeals

PERSON REPRESENTED (Show your full name)

Tony Ritchens

CHARGE/OFFENSE (describe if applicable & check box →) ☒ Felony
☐ Misdemeanor

- 1 ☒ Defendant - Adult
 2 ☐ Defendant - Juvenile
 3 ☐ Appellant
 4 ☐ Probation Violator
 5 ☐ Parole Violator
 6 ☐ Habeas Petitioner
 7 ☐ 2255 Petitioner
 8 ☐ Material Witness
 9 ☐ Other (Specify) _____

ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY

ASSETS	EMPLOYMENT	Are you now employed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Am Self Employed
		Name and address of employer: _____
	OTHER INCOME	IF YES, how much do you earn per month? \$ _____ IF NO, give month and year of last employment _____ How much did you earn per month? \$ _____
		If married is your Spouse employed? <input type="checkbox"/> Yes <input type="checkbox"/> No <u>Divorced</u> IF YES, how much does your Spouse earn per month? \$ _____ If a minor under age 21, what is your Parents or Guardian's approximate monthly income? \$ _____
CASH	Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No IF YES, GIVE THE AMOUNT RECEIVED & IDENTIFY THE SOURCES <u>RECEIVED: 607 Disability</u>	
	Have you any cash on hand or money in savings or checking account? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <u>First Bank of Boz</u> IF YES, state total amount \$ _____	
PROPERTY	Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	IF YES, GIVE THE VALUE AND DESCRIBE IT	

OBLIGATIONS & DEBTS	DEPENDENTS	MARITAL STATUS <input type="checkbox"/> SINGLE <input type="checkbox"/> MARRIED <input type="checkbox"/> WIDOWED <input checked="" type="checkbox"/> SEPARATED OR DIVORCED	Total No. of Dependents <u>0</u>	List persons you actually support and your relationship to them _____
	DEBTS & MONTHLY BILLS (LIST ALL CREDITORS, INCLUDING BANKS, LOAN COMPANIES, CHARGE ACCOUNTS, ETC.)	APARTMENT OR HOME: <u>Lives w/ sister</u>	Creditors <u>Medications</u>	Total Debt \$ _____ Monthly Payt. \$ <u>500</u> \$ <u>100</u>

I certify under penalty of perjury that the foregoing is true and correct. Executed on (date)

7/13/12

SIGNATURE OF DEFENDANT
(OR PERSON REPRESENTED)

Tony W. Ritchens

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA,

VS.

CASE NO.

CARY DALE VANDIVER,
Defendant.

2:12-mj-00217 RRA

MOTION FOR RELEASE ON BAIL

Defendant VanDiver moves for an order granting his release pending further proceedings in Michigan, and as grounds would assert the following:

1. Defendant is 52 years of age and has significant health problems, including a serious leg injury that has caused considerable pain and inconvenience, especially if he is chained at the feet for an extended period of time. Surgery has been unable to correct the problem. Its level of severity is such that it has kept him from riding a motorcycle. Counsel believes that the road trip to Michigan could be circuitous and time consuming. Defendant is 6' 9" tall, and that fact adds significantly to the problems of transportation and the undue discomfort he will suffer.
2. As the Probation statement indicates, he has been charged previously in the federal courts and has always been released pending trial. As noted, his charge in 2002 involved release on supervision in this District, without any infraction. In all such instances where he has been charged, he has reported

to court as requested. The only difference is the matter of two tickets in Boaz, Alabama, where he appeared and was fined, but has been unable to pay the expensive fines. That is the cause of the present misdemeanor claim against his liberty.

3. That defendant believes that at least two of his fellow Alabama defendants are not going to be detained and will be allowed to travel by car to Michigan on their own. He can accompany them for all court settings and can find lodging there whenever necessary.
4. Defendant can stay with his girlfriend at her residence, though he has a place to stay with another defendant's family. That house adjoins the "clubhouse" where defendant was arrested without incident on his part.
5. Defendant is not taking drugs other than the medicine prescribed by his physician, and the jail records should reflect that.
6. Defendant's criminal history consists mainly of misdemeanor offenses, and no charges of violence or possession of a weapon. The burglary allegation was from 1979 and if of any consequence, seems to be sealed under the Youthful Offender Act.
7. As the report indicates, defendant has had no new charges since 2009, and those were dismissed. Further, the indictment seems to make no allegations of misconduct after 2009 either.

8. Defendant and his attorney have confidence in the ability of the Probation Office and the Marshal to monitor him in a successful fashion pending completion of the criminal matter in Michigan. They have been successful with him before and should be again.

By: William M. Dawson

Attorney for Defendant
WILLIAM M. DAWSON
2229 Morris Avenue
Birmingham, AL 35203
(205) 323-6170
bill@billdawsonlaw.com

I HEREBY CERTIFY THAT I HAVE E-FILED A COPY OF THE FOREGOING TO THE ASSISTANT UNITED STATES ATTORNEY, THIS THE 15th DAY OF JULY, 2012.

By: William M. Dawson

A TRUE COPY
SHARON N. HARRIS, CLERK
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
BY: Sheridan Fisher
DEPUTY CLERK

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Mag. No. 12-217

v.

D-7 CARY DALE VANDIVER,
a/k/a "Gun Control"
*Defendant.*A TRUE COPY
SHARON N. HARRIS, CLERK
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMABY: 

DEPUTY CLERK

GOVERNMENT'S MOTION FOR PRETRIAL DETENTION

The United States of America, by and through its attorneys, JOYCE WHITE VANCE, United States Attorney, John B. Felton, Assistant United States Attorneys, hereby moves for pretrial detention of defendant CARY DALE VANDIVER because he is both a clear danger to the community and a significant flight risk. Furthermore, based upon the nature of the charges, pursuant to 18 U.S.C. § 3142(e)(3), there is a rebuttable presumption that the defendant is a danger to the community and a flight risk. Because no condition or combination of conditions will reasonably assure the defendant's presence as required and/or the safety of the community, the government avers that CARY DALE VANDIVER should be detained pending trial. The following information was provided to the undersigned Assistant United States Attorney by the United States Attorney's office in the Eastern District of Michigan.

I. INTRODUCTION

CARY DALE VANDIVER is a longtime member Devils Diciples Motorcycle Club (DDMC) and the National Warlord - meaning that he is responsible for protecting the DDMC from attack and

organizing attacks on other motorcycle gangs and other enemies. During VANDIVER's time in a leadership role within the DDMC, VANDIVER has actively participated in the DDMC's crime wave across Michigan and other states. During the course of the charged conspiracies, VANDIVER and the DDMC distributed a massive amount of methamphetamine, hydrocodone, and other drugs. VANDIVER also helped lead the DDMC in a systematic pattern of violence, witness intimidation, and obstruction of justice. During the time frame specified in the third superseding indictment, members of the DDMC have (a) shot and killed three people in two separate incidents, (b) shot and wounded two people in two separate incidents, (c) savagely assaulted five people and left four of them for dead in the desert, (d) severely beat a disabled man, with what witnesses believe to be brass knuckles, and broke his jaw in two places, and (e) beat and assaulted countless individuals. As described below, VANDIVER played an active role in this pattern of violence, drug dealing, and obstruction of justice.

II. FACTS

A. Overview of DDMC

The Devils Diciples is an outlaw motorcycle gang reputedly formed in California in the late 1960's. Today, the national headquarters of the gang is located in Mt. Clemens, Michigan. The DDMC has more than 150 members, located mostly in Michigan, California, Alabama, Arizona, Indiana, and Ohio. They also have "nomads" who are not affiliated with any particular chapter but are still considered members. Since the DDMC is not as big as other motorcycle gangs, the chapters work closely together and the national leadership is more intimately involved in day-to-day affairs of the chapters than other gangs.

The enterprise structure of the DDMC is very similar to the hierarchical structure commonly associated with other motorcycle gangs and other organized crime groups. JEFF SMITH has been the National President for about 25 years and is their undisputed leader for both legal and illegal club activities. PAUL DARRAH is the National Vice President. The DDMC also has a National Treasurer and a National Warlord. Beneath the national structure, each local chapter has a similar structure. For example, GARY NELSON was the President of the Blue Water, Michigan chapter. VERNON RICH was the President of the Port Huron, Michigan chapter.

The primary money-making activity of the gang is drug trafficking, mostly methamphetamine, but the DDMC also sells some marijuana and prescription drugs. The DDMC manufactures a large portion of the methamphetamine sold and uses both the red phosphorus and “shake and bake” methods for producing the drug. A secondary money-making activity of the DDMC is illegal gambling. The DDMC placed slot machines in DDMC clubhouses and other locations, and sold “raffle” tickets for DDMC events, the proceeds of which supports the organization and individual members.

DDMC members are expected to abide by DDMC by-laws, which include both written and oral rules. Punishment or disciplinary action for violations of DDMC rules includes assaults (sometimes called “Black Eyes”), fines, seizure of property, and/or expulsion from the organization. On several occasions as described herein, the disciplinary action resulted in death or attempted murder.

There are three stages of membership in the DDMC. All non-members are called “citizens.” A citizen is permitted to socialize with the DDMC and attend some club parties, but a citizen can

not participate in any official club activities. In order to join the club, a citizen would befriend a member and become an associate, the first stage toward joining the DDMC. This stage allows the DDMC to observe the associate and the associate to observe the DDMC. Once the associate and the DDMC expressed a mutual interest in the citizen joining the gang, the associate enters the second stage and becomes a "prospect." Prospects are required to submit to orders and directives from DDMC members, which could include physical assaults. The prospect period could last from a few minutes to a few months before entering the third stage and becoming a full-patch wearing member. Before becoming a full-patch member, a prospect is required to have a powerful Harley Davidson motorcycle in working order.

DDMC members wear the vestments of their membership proudly and publically. They routinely wear leather vests which include chapter and club membership information surrounding the emblem of the DDMC. Members sometimes receive patches for deeds performed on behalf of the club. When a member leaves the club, the member is forced to return all DDMC related items, including tattoos, which are either burned off or covered in black tattoo ink. The DDMC usually attempts to confiscate a former member's motorcycle, by force if necessary.

Women can not become members, but are regarded as personal property. Wives, girlfriends, and female associates are required to provide financial and other support for DDMC members - typically working in bars or strip clubs. They frequently are required to participate in the club's illegal activities, including drug trafficking and obstruction of justice. The DDMC frequently use women as drug mules. Women can aspire to earn a "Property Of" vestment to signify their relationship to a DDMC member. This vestment protects women from being assaulted by other

members. Women without protection from a member are fair game for sexual assault.

DDMC members are required to attend regular meetings, sometimes known as “church” and motorcycle riding events known as “runs.” Failure to attend a meeting could subject the member to disciplinary action. Members are also expected to follow orders from the National President or Chapter President, including to assault another member, to distribute drugs, to seize property, to lie to law enforcement, to intimidate witnesses, and to otherwise protect the DDMC organization and members.

DDMC members are required to pay monthly dues to the chapter and yearly dues to the national organization. Members are also subjected to fines, taxes on illegal income, and special assessments. Many DDMC members generate a profit from illegal activities such as drug dealing or illegal gambling and are required to pay a portion of the proceeds to the organization. The organization uses these funds often to pay club expenses and to provide a bail and legal defense fund for members who have been arrested. DDMC members have, in the past, also been required to obtain a life insurance policy naming another DDMC member as the beneficiary.

Over the years, the DDMC has been involved in a systemic pattern of obstruction of justice and witness intimidation. DDMC members have often raised money to assist members who face criminal prosecution. It is common for a DDMC member who is under investigation or prosecution in one jurisdiction to flee to a DDMC clubhouse in another jurisdiction in an attempt to evade prosecution. DDMC members have often assisted DDMC members facing prosecution by committing perjury, intimidating or threatening prospective witnesses, or otherwise obstructing justice. For example, when DDMC member VICTOR CASTANO faced federal drug and firearms

charges, the DDMC leadership arranged for a DDMC member and his girlfriend to perjure themselves during his trial in an attempt to get CASTANO acquitted.

B. Evidence

The government has a staggering amount of evidence to prove these charges. More than a dozen current or former DDMC members are cooperating with the FBI's investigation and are ready to testify at trial about the DDMC's criminal activities. This testimony will be supported by (a) Title III intercepted phone calls between DDMC members discussing these crimes, (b) drug seizures by the FBI and other law enforcement officers; (c) controlled purchases of methamphetamine from DDMC members; (d) and evidence seized from more than a dozen search warrants executed at DDMC clubhouses, DDMC methamphetamine laboratories, and other DDMC related addresses.

C. Role in the Offense

CARY DALE VANDIVER is a longtime DDMC member and the National Warlord. VANDIVER was actively involved in drug trafficking, illegal gambling, obstruction of justice, and violent crimes in aid of racketeering.

Regarding the drug trafficking, VANDIVER was very active in organizing the DDMC to manufacture large amounts of methamphetamine in their laboratories in Alabama and then transporting those drugs to Michigan for distribution. For example, on March 10, 2002, TONY KITCHENS, David Holland, and VANDIVER were stopped by the Taylor, Michigan Police and 400 grams of methamphetamine, a quantity of marijuana and other controlled substances, a loaded firearm and two additional magazines, a loaded 9 mm magazine were seized. VANDIVER was then released on bail. The next day, VANDIVER was arrested in Eastpointe Michigan during a traffic

stop where police found another loaded firearm in the vehicle. After the DDMC's methamphetamine laboratories in Alabama were shut down, VANDIVER assisted the DDMC set up new laboratories in Michigan. VANDIVER taught DDMC members in Michigan the process of manufacturing methamphetamine. VANDIVER then assisted DDMC members distribute the cooked methamphetamine. For example, on August 4, 2007, VANDIVER and VERNON RICH sold 9.78 grams of methamphetamine to another DDMC member which was later seized by the FBI.

On October 17, 2008, Macomb County police stopped Jamie Jean Franks and VANDIVER and seized 42.4 grams of red phosphorus, a white paper package containing .92 grams of methamphetamine, a second package containing 4 grams of methamphetamine, a digital scale, assorted pills, plastic bags, and other indicia of methamphetamine distribution. Prior to this stop, on September 8, 2008, the FBI intercepted a phone call between VANDIVER and PATRICK MCKEOUN in which they discuss purchasing cold pills, which are a precursor chemical to manufacturing methamphetamine. NPLEX records show that VANDIVER has purchased 22 boxes of cold pills over a three year period. VANDIVER later told DDMC members that the DDMC arranged with a corrupt judge for his case to be dismissed.

On at least two occasions, VANDIVER participated in the DDMC's trafficking in stolen motorcycles and motorcycle parts. In 2004, CARY DALE VANDIVER, DEAN JAKIEL, RONALD ROBERTS, and other DDMC members broke into a storage facility in Oxford, Alabama and stole 4 motorcycles. They drove the motorcycles to the Alabama clubhouse. DDMC member MICHAEL RICH took one of the motorcycles for himself. The rest of the motorcycles were disassembled, placed into MASTROMATTEO's van, and transported to Michigan for distribution. On another

occasion, McFadden, Stella Herron, VICTOR CASTANO, DEAN JAKIEL, and VANDIVER conspired to steal, and JAKIEL and VANDIVER stole motorcycles and parts from Alabama Custom Cycles in Owens Cross Roads, Alabama.

As National Warlord, VANDIVER further participated in the DDMC's violent conduct and threats of violence. VANDIVER provided firearms to DDMC members as needed. On March 10, 2002, defendant CARY DALE VANDIVER possessed three "pawn slips" regarding the transfer of firearms to pawn shops in Alabama. VANDIVER often accompanied other DDMC members when threats were made. For example, in September 2008, JEFF SMITH, PAUL DARRAH, and VANDIVER went to DDMC member SCOTT PERKINS's residence to confront him his roommate, SMILEY VILLA, breaking DDMC rules. SMITH told PERKINS that VILLA had to leave the house immediately. SMITH was holding a club and standing with DARRAH and VANDIVER, threatened to assault Perkins, stating, "either you're getting this club or he is," and explained that VILLA had "disrespected your patch and now he is living at your house."

VANDIVER was also intimately involved in the DDMC's concerted effort to obstruct justice and intimidate witnesses. VANDIVER played an important role in arranging for a DDMC member and his girlfriend to perjure themselves during the trial of DDMC member VICTOR CASTANO. MICHAEL RICH and VANDIVER threatened the girlfriend into falsely testifying by stating that he would give her 18 year old daughter drugs and force her daughter to become a prostitute if she refused.

D. Criminal Record

CARY DALE VANDIVER was convicted in 1999 of possession of marijuana. He has

numerous other arrests which did not lead to criminal convictions.

E. Charges

Defendant CARY DALE VANDIVER is charged in the Third Superseding Indictment with (a) conspiracy to violate the Racketeer Influenced and Corrupt Organizations Act (RICO); (b) conspiracy to conduct an illegal gambling business, (c) conspiracy to distribute 500 grams or more of methamphetamine, (d) distribution and possession with the intent to distribute methamphetamine, (e) conspiracy to obstruct justice by witness tampering, (f) assault in aid of racketeering, and (g) possession of methamphetamine precursors. VANDIVER is also charged in a separate indictment with conspiracy to suborn perjury and obstruct justice, subornation of perjury, and obstruction of justice.

F. Maximum Penalties

As a result of these offenses, the maximum punishment for VANDIVER is life in prison and there is a 10 year mandatory minimum period of imprisonment. In terms of a preliminary look at the sentencing guidelines, VANDIVER's base offense level for the methamphetamine trafficking is 38. VANDIVER would receive a 2 level enhancement for obstruction of justice. Consequently, VANDIVER is looking at a recommended sentence of 292 to 365 months to life in prison.

G. Community Ties

During the course of the charged conspiracy, VANDIVER has lived a transient lifestyle - moving back and forth between Michigan and Alabama. He has no known fixed address.

III. CONCLUSION

CARY DALE VANDIVER was the National Warlord of a violent outlaw motorcycle gang.

Along with JEFF SMITH and PAUL DARRAH, VANDIVER led the DDMC through an interstate crime rampage of drugs, violence, and wide array of other criminal conduct. When considering the strength of the overwhelming evidence against VANDIVER and the likely substantial sentence he faces if convicted, there is an inherent risk that VANDIVER may flee to avoid prosecution. Due to the gravity of the charges, there is a presumption that VANDIVER is a risk of flight and a danger to the community and should be detained pending trial. For these reasons, no condition or combination of conditions will reasonably assure the appearance of VANDIVER as required and the safety of the community. Therefore, the Court should detain VANDIVER pending trial.

Respectfully submitted,

JOYCE WHITE VANCE
United States Attorney

s/Brad Felton
JOHN B. FELTON
Assistant United States Attorney

UNITED STATES DISTRICT COURT

FILED

DISTRICT OF

UNITED STATES OF AMERICA

V.

CARY DALE VANDIVER

Defendant

WAIVER OF RULE 40 HEARINGS
(All Criminal Cases)

JUDGE: ROBERT R. ARMSTRONG

CASE NUMBER: 2:12-MJ-217-RRA

I understand that charges are pending in the EASTERN District of MICHIGANalleging violation of 18 U.S.C. section 1962(d) Racketeering and that I have been arrested in this district and

(Title and Section / Probation / Supervised Release)

taken before a United States magistrate judge, who has informed me of the charge(s) and my rights to:

- (1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
- (2) an identity hearing to determine whether I am the person named in the charges;

- Check one only -

☐ EXCLUDING PROBATION OR SUPERVISED RELEASE CASES:

- (3) a preliminary examination (unless an indictment has been returned or information filed) to determine whether there is probable cause to believe an offense has been committed by me, the hearing to be held in this district or the district of prosecution; and
- (4) request transfer of the proceedings to this district under Rule 20, Fed. R. Crim. P., in order to plead guilty.

☐ PROBATION OR SUPERVISED RELEASE CASES:

- (3) a preliminary examination (if the violation charged allegedly occurred in this district, and I am held in custody solely on that charge) to determine whether there is probable cause to believe I have violated the terms of my probation/supervised release; and
- (4) a hearing under Rule 46 (c), Fed. R. Crim. P., in which I have the burden of establishing my eligibility for release.

I HEREBY WAIVE (GIVE UP) MY RIGHT TO A(N):

- ☒ identity hearing
- ☐ preliminary examination
- ☐ identity hearing and have been informed I have no right to a preliminary examination
- ☐ identity hearing but request a preliminary examination be held in the prosecuting district and, therefore, consent to the issuance of an order requiring my appearance in the prosecuting district where the charges are pending against me.

Cary Vandiver
Defendant

A TRUE COPY
SHARON N. HARRIS, CLERK
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

Defense Counsel

BY: Sherian Fisher
DEPUTY CLERK

7/16/12
Date

FILED

2012 Jul-16 PM 05:36

U.S. DISTRICT COURT

N.D. OF ALABAMA

AO 466 (Rev. 8/01) Waiver of Rule 40 Hearings

UNITED STATES DISTRICT COURT

FILED

DISTRICT OF

2012 JUL 16 P 5-28

UNITED STATES OF AMERICA

WAIVER OF RULE 40 HEARINGS
(All Criminal Cases)

V.

JUDGE: ROBERT R. ARMSTRONG

MICHAEL KENNETH RICH

Defendant

CASE NUMBER: 2:12-MJ-217-RRA

I understand that charges are pending in the EASTERN District of MICHIGANalleging violation of 18 U.S.C. section 1962(d) Racketeering and that I have been arrested in this district and

(Title and Section / Probation / Supervised Release)

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Defendant

A TRUE COPY
SHARON N. HARRIS, CLERKDate 7/17/12 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMABY: Sharon Fisher
DEPUTY CLERK

FILED

2012 Jul-16 PM 05:36

U.S. DISTRICT COURT

N.D. OF ALABAMA

AO 466 (Rev. 8/01) Waiver of Rule 40 Hearings

UNITED STATES DISTRICT COURT

FILED

DISTRICT OF

2012 JUL 16 P 5:28

UNITED STATES OF AMERICA

U.S. DISTRICT COURT
WAIVER OF RULE 40 HEARINGS
 (All Criminal Cases)

V.

JUDGE: ROBERT R. ARMSTRONG

DEAN EDWARD JAKIEL

Defendant

CASE NUMBER: 2:12-MJ-217-RRA

I understand that charges are pending in the EASTERN District of MICHIGANalleging violation of 18 U.S.C. section 1962(d) Racketeering and that I have been arrested in this district and

(Title and Section / Probation / Supervised Release)

taken before a United States magistrate judge, who has informed me of the charge(s) and my rights to:

- (1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
- (2) an identity hearing to determine whether I am the person named in the charges;

- Check one only -

☐ EXCLUDING PROBATION OR SUPERVISED RELEASE CASES:

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7/16/12
 Date

Defendant

Defense Counsel

A TRUE COPY

SHARON N. HARRIS, CLERK

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ALABAMA

BY:

DEPUTY CLERK

UNITED STATES DISTRICT COURT

FILED

DISTRICT OF

2012 JUL 16 P 5:28

UNITED STATES OF AMERICA

V.

TONY WAYNE KITCHENS

Defendant

WAIVER OF RULE 40 HEARINGS
(All Criminal Cases)

JUDGE: ROBERT R. ARMSTRONG

CASE NUMBER: 2:12-MJ-217-RRA

I understand that charges are pending in the EASTERN District of MICHIGANalleging violation of 18 U.S.C. section 1623 - Perjury and that I have been arrested in this district and
(Title and Section / Probation / Supervised Release)

taken before a United States magistrate judge, who has informed me of the charge(s) and my rights to:

- (1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
- (2) an identity hearing to determine whether I am the person named in the charges;

- Check one only -

☐ EXCLUDING PROBATION OR SUPERVISED RELEASE CASES:

- (3) a preliminary examination (unless an indictment has been returned or information filed) to determine whether there is probable cause to believe an offense has been committed by me, the hearing to be held in this district or the district of prosecution; and
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7-16-12

Date

Defendant

Defense Counsel

A TRUE COPY

SHARON N. HARRIS, CLERK

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ALABAMA

BY:

Sharon Fisher
DEPUTY CLERK

UNITED STATES OF AMERICA

v.

CARY DALE VANDIVER.

Defendant.

2:12-mj-00217-RRA

This defendant is charged in a lengthy indictment as well as in a three-count indictment out of the Eastern District of Michigan. The government has moved for detention. In the first indictment the defendant is charged in numerous counts, including conspiracy to conduct illegal gambling, methamphetamine offenses, conspiracy to obstruct justice by witness tampering, assault in aid of racketeering, conspiracy to suborn perjury, and a RICO conspiracy. There is an evidentiary presumption under 18 U.S.C. § 3142(e) that the defendant should be detained. An FBI special agent was the only witness.

Evidence at the detention hearing revealed that the defendant occupied or occupies a high position in a gang known as the Devil's Disciples and apparently is a significant player in the alleged criminal enterprise in question. When he was arrested last week, he said, apparently referring to someone the defendant blamed for his arrest, "When I find him I'll choke his eyeballs out." There was testimony that the defendant previously threatened a "snitch."

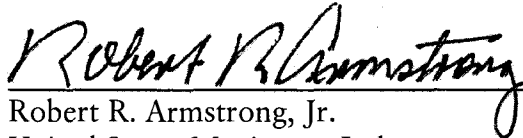
It is determined that there is no condition or combination of conditions that can be

SHARON N. HARRIS, CLERK
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

A TRUE COPY
SHARON N. HARRIS, CLERK
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
BY: Sharon Harris
DEPUTY CLERK

imposed on the defendant's that would reasonably assure the safety of the community. Wherefore, it is hereby ORDERED that the defendant be held without bond, pending disposition of this case. It is further ORDERED that he be committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility. The defendant shall be afforded a reasonable opportunity for private consultations with counsel. On order of this court or on request from an attorney for the United States, the person in charge of the corrections facility in which the defendant is confined will deliver him to the United States Marshal for the purpose of appearance in connection with a court proceeding.

DONE this 17th day of July, 2012.

A handwritten signature in black ink, reading "Robert R. Armstrong, Jr.", written over a horizontal line.

Robert R. Armstrong, Jr.
United States Magistrate Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA

vs.

CASE NUMBER 2:12-mj-217-RRA
Charging District Case Number 11-CR-20129

CARY DALE VANDIVER

COMMITMENT TO ANOTHER DISTRICT

The defendant is charged with a violation of 18 U.S.C. 1962(d) alleged to have been committed in the Eastern District of Michigan..

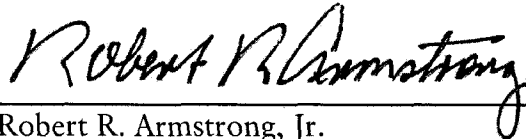
Brief description of charge(s): Racketeering

The defendant has been unable to obtain release under the Bail Reform Act of 1984, 18 U.S.C. §§3141-3143.

TO: THE UNITED STATES MARSHAL

You are hereby commanded to take custody of the above named defendant and to transport that defendant with a certified copy of this commitment forthwith to the district of offense as specified above and there deliver the defendant to the United States Marshal for that District or to some other officer authorized to receive the defendant, all proceedings required by Fed.R.Crim.P.40 having been completed.

July 17, 2012



Robert R. Armstrong, Jr.
United States Magistrate Judge

A TRUE COPY
SHARON N. HARRIS, CLERK
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

BY: 
DEPUTY CLERK

RETURN		
This commitment was received and executed as follows:		
DATE COMMITMENT ORDER RECEIVED	PLACE OF COMMITMENT	DATE DEFENDANT COMMITTED
DATE	UNITED STATES MARSHAL	(BY) DEPUTY MARSHAL

FILED

2012 Jul-17 PM 05:13
U.S. DISTRICT COURT
N.D. OF ALABAMAUNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

APPEARANCE BOND

FILED

UNITED STATES OF AMERICA

2012 JUL 16 P 5:28

vs.

U.S. DISTRICT COURT
N.D. OF ALABAMA
Case No. 2:12-MJ-217-RRA

MICHAEL KENNETH RICH

Non-surety: I, the undersigned defendant acknowledge that I and my personal representatives, jointly and severally, are bound to pay to the United States of America the sum of \$ 50,000.00.

The conditions of this bond are that the defendant, **MICHAEL KENNETH RICH**, before this court and at such other places as he defendant may be required to appear, in accordance with any and all orders and directions relating to the defendant's appearance in this case, including appearance for violation of a condition of defendant's release as may be ordered or notified by this court or any other United States District Court to which the defendant may be held to answer or the cause transferred. The defendant is to abide by any judgment entered in such matter by surrendering to serve any sentence imposed and obeying any order or direction in connection with such judgment.

It is agreed and understood that this is a continuing bond (including any proceeding on appeal or review) which shall continue until such time as the undersigned are exonerated.

If the defendant appears as ordered or notified and otherwise obeys and performed the foregoing conditions of this bond, then this bond is to be void, but if the defendant fails to obey or perform any of these conditions, payment of the amount of this bond shall be due forthwith. Forfeiture of this bond for any breach of its conditions may be declared by any United States District Court having cognizance of the above entitled matter at the time of such breach and if the bond is forfeited and if the forfeiture is not set aside or remitted, judgment may be entered upon motion in such United States District Court against each debtor jointly and severally for the amount above stated, together with interest and costs, and execution may be issued and payment secured as provided by the Federal Rules of Criminal Procedure and any other laws of the United States.

This bond is signed on July 16, 2012 at BIRMINGHAM, ALABAMA.

X Michael K. Rich
DEFENDANT

530 ELM ST
MAILING ADDRESS
ANNISTON, AL 36201
CITY, STATE, ZIP CODE
256-225-7522
TELEPHONE NO.

Signed and acknowledged before me on July 16, 2012

Sherian Fisher
Sharon Harris Clerk of court by Sherian Fisher

RF
Approved.

A TRUE COPY
SHARON N. HARRIS, CLERK
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
BY: Sherian Fisher
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA**

ACKNOWLEDGEMENT OF DEFENDANT

CASE NUMBER 2:12-MJ-217-RRA

I acknowledge that I am aware of the conditions of release set forth in the General Order Setting Conditions of Release filed April 15, 1998. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I further acknowledge that I have received a copy of the General Order Setting Conditions of Release filed April 15, 1998.

*Report to ED/MI
July 20th 2012
at 1:00 pm.*

July 16, 2012


DEFENDANT

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA**

UNITED STATES OF AMERICA

vs.

CASE NUMBER 2:12-MJ-217-RRA

MICHAEL KENNETH RICH

ORDER SETTING CONDITIONS OF RELEASE

IT IS ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local law while on release in this case.
- (2) The defendant shall immediately advise the court, defense counsel and the U. S. attorney in writing **before** any change in address and telephone number.
- (3) The defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed as directed. The defendant shall next appear at **AS DIRECTED BY THE COURT..**

Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant be released provided that:

- (✓) (4) The defendant promises to appear at all proceedings as required and to surrender for service of any sentence imposed.
- (X) (5) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of **FIFTY THOUSAND DOLLARS (\$ 50,000.00)** in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community, it is **FURTHER ORDERED** that the release of the defendant is subject to the conditions marked below:

(X) (6) The defendant is placed in the custody of:

Name _____

Address _____

Phone No. _____

who agrees (a) to supervise the defendant in accordance with all conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

Signed: _____

Signed: _____

(XXX) (7) The defendant shall:

- (X) (a) **Report as soon as possible, to the supervising officer.**
- (X) (b) **Maintain residence ~~with third party custodians~~**
- (X) (c) **Mental Health Counseling as Directed.**
- (X) (d) **REPORT TO U S PROBATION OFFICE AS DIRECTED BY U S PROBATION OFFICER;**
- (X) (e) **Defendant to Submit to a search of person/residence/vehicle or office.**
- (X) (f) **refrain from excessive use of alcohol, and any use or unlawful possession of narcotic drug and other controlled substances defined in 21 U.S.C. §802 unless prescribed by a licensed medical practitioner; and defendant to submit to drug testing As directed by the United states Probation Officer;**
- (X) (g) **Restricted travel to ND/AL and ED/MI for court purposes only.**
- () (h) execute a bond or agreement to forfeit upon failing to appear as required, the following sum of money or designated property:
- () (i) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described money:
- () (j) execute a bail bond with solvent sureties in the amount of \$500.00
- () (k) surrender any passport to
- () (l) obtain no passport.
- (✓) (m) **THE DEFENDANT SHALL NOT CONTACT, HARASS, INTIMIDATE, OR THREATEN ANY PERSON IN VIOLATION OF 18 U.S.C. §§ 1503, 1510, 1512 AND 1513.**

Advice of Penalties and Sanctions

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a possible term of imprisonment or a fine.

The commission of any crime while on pre-trial release may result in an additional sentence to a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to five years of imprisonment, and a \$250,000 fine or both to intimidate or attempt to intimidate a witness, victim, juror, informant or officer of the court, or to obstruct a criminal investigation. It is also a crime punishable by up to ten years of imprisonment, a \$250,000 fine or both, to tamper with a witness, victim or informant, or to retaliate against a witness, victim or informant, or to threaten or attempt to do so.

If after release, the you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for not more than ten years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in addition to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgement of Defendant

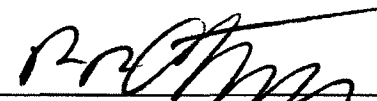
I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.


MICHAEL KENNETH RICH

Directions to United States Marshal

- (X) The defendant is ORDERED released after processing.
() The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

July 16, 2012


ROBERT R. ARMSTRONG, U.S. MAGISTRATE JUDGE

FILED

2012 Jul-17 PM 05:17
U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

APPEARANCE BOND

FILED

UNITED STATES OF AMERICA

2012 JUL 16 P 5:28

vs.

Case No. 2:12-MJ-217-RRA

DEAN EDWARD JAKIEL

U.S. DISTRICT COURT
N.D. OF ALABAMA

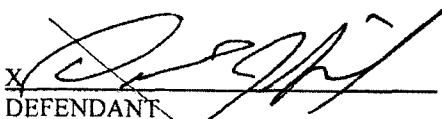
Non-surety: I, the undersigned defendant acknowledge that I and my personal representatives, jointly and severally, are bound to pay to the United States of America the sum of \$ 50,000.00.

The conditions of this bond are that the defendant, **DEAN EDWARD JAKIEL**, before this court and at such other places as he defendant may be required to appear, in accordance with any and all orders and directions relating to the defendant's appearance in this case, including appearance for violation of a condition of defendant's release as may be ordered or notified by this court or any other United States District Court to which the defendant may be held to answer or the cause transferred. The defendant is to abide by any judgment entered in such matter by surrendering to serve any sentence imposed and obeying any order or direction in connection with such judgment.

It is agreed and understood that this is a continuing bond (including any proceeding on appeal or review) which shall continue until such time as the undersigned are exonerated.

If the defendant appears as ordered or notified and otherwise obeys and performed the foregoing conditions of this bond, then this bond is to be void, but if the defendant fails to obey or perform any of these conditions, payment of the amount of this bond shall be due forthwith. Forfeiture of this bond for any breach of its conditions may be declared by any United States District Court having cognizance of the above entitled matter at the time of such breach and if the bond is forfeited and if the forfeiture is not set aside or remitted, judgment may be entered upon motion in such United States District Court against each debtor jointly and severally for the amount above stated, together with interest and costs, and execution may be issued and payment secured as provided by the Federal Rules of Criminal Procedure and any other laws of the United States.

This bond is signed on **July 16, 2012** at **BIRMINGHAM, ALABAMA**.

X 
DEFENDANT

1309 DELWOOD DR. SW

PO Box 1240

MAILING ADDRESS

JACKSONVILLE, AL 36065

CITY, STATE, ZIP CODE

TELEPHONE NO.

PHONE 256-452-7446

WIFE 256-452-7798

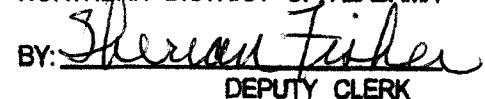
Signed and acknowledged before me on July 16, 2012



Sharon Harris Clerk of court by Sherian Fisher


Approved.

A TRUE COPY
SHARON N. HARRIS, CLERK
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

BY: 
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA**

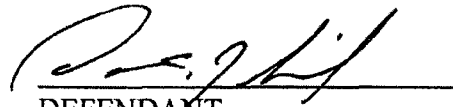
ACKNOWLEDGEMENT OF DEFENDANT

CASE NUMBER 2:12-MJ-217-RRA

I acknowledge that I am aware of the conditions of release set forth in the General Order Setting Conditions of Release filed April 15, 1998. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I further acknowledge that I have received a copy of the General Order Setting Conditions of Release filed April 15, 1998.

*Report in ED/MI
July 20, 2012
1:00 pm.*

July 16, 2012


DEFENDANT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA

vs.

CASE NUMBER 2:12-MJ-217-RRA

DEAN EDWARD JAKIEL

ORDER SETTING CONDITIONS OF RELEASE

IT IS ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local law while on release in this case.
- (2) The defendant shall immediately advise the court, defense counsel and the U. S. attorney in writing **before** any change in address and telephone number.
- (3) The defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed as directed. The defendant shall next appear at **AS DIRECTED BY THE COURT.**

Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant be released provided that:

- (✓) (4) The defendant promises to appear at all proceedings as required and to surrender for service of any sentence imposed.
- (X) (5) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of **FIFTY THOUSAND DOLLARS (\$50,000.00)** in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community, it is **FURTHER ORDERED** that the release of the defendant is subject to the conditions marked below:

(X) (6) The defendant is placed in the custody of:

Name _____

Address _____

Phone No. (_____

who agrees (a) to supervise the defendant in accordance with all conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

Signed: _____

Signed: _____

(XXX) (7) The defendant shall:

- (X) (a) **Comply with residential requirements.**
- () (b) **Maintain residence with third party custodians**
- (X) (c) **Mental Health Counseling at the direction of USPO.**
- (X) (d) **REPORT TO U S PROBATION OFFICE AS DIRECTED BY U S PROBATION OFFICER;**
- (X) (e) **refrain from possessing a firearm, destructive device, or other dangerous weapon;**
- (X) (f) **refrain from excessive use of alcohol, and any use or unlawful possession of narcotic drug and other controlled substances defined in 21 U.S.C. §802 unless prescribed by a licensed medical practitioner; and defendant to submit to drug testing As directed by the United states Probation Officer;**
- (X) (g) **Submit to search of person/residence/vehicle or office.**
- (X) (h) **Restricted travel to ND/AL and ED/MI (four court purposes only)**
- () (i) **execute a bond or agreement to forfeit upon failing to appear as required, the following sum of money or designated property:**
- () (j) **post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described money:**
- () (k) **execute a bail bond with solvent sureties in the amount of \$500.00**
- () (l) **surrender any passport to**
- () (m) **obtain no passport.**
- (✓) (n) **THE DEFENDANT SHALL NOT CONTACT, HARASS, INTIMIDATE, OR THREATEN ANY PERSON IN VIOLATION OF 18 U.S.C. §§ 1503, 1510, 1512 AND 1513.**

Advice of Penalties and Sanctions

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a possible term of imprisonment or a fine.

The commission of any crime while on pre-trial release may result in an additional sentence to a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to five years of imprisonment, and a \$250,000 fine or both to intimidate or attempt to intimidate a witness, victim, juror, informant or officer of the court, or to obstruct a criminal investigation. It is also a crime punishable by up to ten years of imprisonment, a \$250,000 fine or both, to tamper with a witness, victim or informant, or to retaliate against a witness, victim or informant, or to threaten or attempt to do so.

If after release, the you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for not more than ten years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in addition to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgement of Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.


DEAN EDWARD JAKIEL

Directions to United States Marshal

- (X) The defendant is ORDERED released after processing.
- () The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

July 16, 2012


ROBERT R. ARMSTRONG, U.S. MAGISTRATE JUDGE

FILED

2012 Jul-17 PM 05:36
U.S. DISTRICT COURT
N.D. OF ALABAMAUNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

APPEARANCE BOND

FILED

UNITED STATES OF AMERICA

vs.

TONY WAYNE KITCHENS

Case No. 2:12-MJ-217-RRA
U.S. DISTRICT COURT
N.D. OF ALABAMA

Non-surety: I, the undersigned defendant acknowledge that I and my personal representatives, jointly and severally, are bound to pay to the United States of America the sum of \$ 50,000.00.

The conditions of this bond are that the defendant, TONY WAYNE KITCHENS, before this court and at such other places as he defendant may be required to appear, in accordance with any and all orders and directions relating to the defendant's appearance in this case, including appearance for violation of a condition of defendant's release as may be ordered or notified by this court or any other United States District Court to which the defendant may be held to answer or the cause transferred. The defendant is to abide by any judgment entered in such matter by surrendering to serve any sentence imposed and obeying any order or direction in connection with such judgment.

It is agreed and understood that this is a continuing bond (including any proceeding on appeal or review) which shall continue until such time as the undersigned are exonerated.

If the defendant appears as ordered or notified and otherwise obeys and performed the foregoing conditions of this bond, then this bond is to be void, but if the defendant fails to obey or perform any of these conditions, payment of the amount of this bond shall be due forthwith. Forfeiture of this bond for any breach of its conditions may be declared by any United States District Court having cognizance of the above entitled matter at the time of such breach and if the bond is forfeited and if the forfeiture is not set aside or remitted, judgment may be entered upon motion in such United States District Court against each debtor jointly and severally for the amount above stated, together with interest and costs, and execution may be issued and payment secured as provided by the Federal Rules of Criminal Procedure and any other laws of the United States.

This bond is signed on July 16, 2012 at BIRMINGHAM, ALABAMA.

X Tony Kitchens
DEFENDANT

Tony Kitchens 82 Mary St.
MAILING ADDRESS Albertville
256 878 1041
CITY, STATE, ZIP CODE TELEPHONE NO.

Signed and acknowledged before me on July 16, 2012

Sharon Harris
Sharon Harris Clerk of court by Sharon Harris

TRUE COPY
SHARON N. HARRIS, CLERK
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
BY: Sharon Fisher
DEPUTY CLERK

RC
Approved.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA**

ACKNOWLEDGEMENT OF DEFENDANT

CASE NUMBER 2:12-MJ-217-RRA

I acknowledge that I am aware of the conditions of release set forth in the General Order Setting Conditions of Release filed April 15, 1998. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I further acknowledge that I have received a copy of the General Order Setting Conditions of Release filed April 15, 1998.

July 16, 2012


TONY WAYNE KITCHENS

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA**

UNITED STATES OF AMERICA

vs.

CASE NUMBER 2:12-mj-217-RRA

TONY WAYNE KITCHENS

ORDER SETTING CONDITIONS OF RELEASE

IT IS ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local law while on release in this case.
- (2) The defendant shall immediately advise the court, defense counsel and the U. S. attorney in writing **before** any change in address and telephone number.
- (3) The defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed as directed. The defendant shall next appear at **AS DIRECTED BY THE COURT..**

Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant be released provided that:

- (✓) (4) The defendant promises to appear at all proceedings as required and to surrender for service of any sentence imposed.
- (X) (5) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of **FIFTY THOUSAND DOLLARS (\$50,000.00)** in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community, it is **FURTHER ORDERED** that the release of the defendant is subject to the conditions marked below:

(X) (6) The defendant is placed in the custody of:

Name _____

Address _____

Phone No. (_____

who agrees (a) to supervise the defendant in accordance with all conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

Signed: _____

Signed: _____

(XXX) (7) The defendant shall:

- (X) (a) **Comply with residential requirements.**
- (X) (b) **Maintain current residence.**
- (X) (c) **Mental Health Counseling at the direction of USPO.**
- (X) (d) **REPORT TO U S PROBATION OFFICE AS DIRECTED BY U S PROBATION OFFICER;**
- (X) (e) **refrain from possessing a firearm, destructive device, or other dangerous weapon;**
- (X) (f) **refrain from excessive use of alcohol, and any use or unlawful possession of narcotic drug and other controlled substances defined in 21 U.S.C. §802 unless prescribed by a licensed medical practitioner; and defendant to submit to drug testing As directed by the United states Probation Officer;**
- (X) (g) **Submit to search of person/residence/vehicle or office.**
- (X) (h) **Restricted travel to ND/AL and ED/MI (for court purposes only)**
- () (i) execute a bond or agreement to forfeit upon failing to appear as required, the following sum of money or designated property:
- () (j) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described money.
- () (k) execute a bail bond with solvent sureties in the amount of \$500.00
- () (l) surrender any passport to
- () (m) obtain no passport.
- (✓) (n) **THE DEFENDANT SHALL NOT CONTACT, HARASS, INTIMIDATE, OR THREATEN ANY PERSON IN VIOLATION OF 18 U.S.C. §§ 1503, 1510, 1512 AND 1513.**

Advice of Penalties and Sanctions

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a possible term of imprisonment or a fine.

The commission of any crime while on pre-trial release may result in an additional sentence to a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to five years of imprisonment, and a \$250,000 fine or both to intimidate or attempt to intimidate a witness, victim, juror, informant or officer of the court, or to obstruct a criminal investigation. It is also a crime punishable by up to ten years of imprisonment, a \$250,000 fine or both, to tamper with a witness, victim or informant, or to retaliate against a witness, victim or informant, or to threaten or attempt to do so.

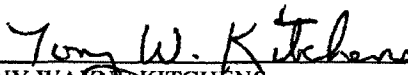
If after release, the you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for not more than ten years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in addition to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgement of Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.


 TONY WAYNE KITCHENS

Directions to United States Marshal

- (X) The defendant is ORDERED released after processing.
 () The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

July 16, 2012

ROBERT R. ARMSTRONG, JR.
 ROBERT R. ARMSTRONG, US MAGISTRATE JUDGE